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UNITED STATES PATENT AND TRADEMARK OFFICE

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BEFORE THE PATENT TRIAL AND APPEAL BOARD

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*Ex parte* KENT SCHOEN

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Appeal 2019-002260  
Application 13/043,424  
Technology Center 3600

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Before MICHAEL C. ASTORINO, NINA L. MEDLOCK, and  
BRUCE T. WIEDER, *Administrative Patent Judges*.

MEDLOCK, *Administrative Patent Judge*.

DECISION ON APPEAL

STATEMENT OF THE CASE

Appellant<sup>1</sup> appeals under 35 U.S.C. § 134(a) from the Examiner’s final rejection of claims 1–9, 11–23, and 25–27. We have jurisdiction under 35 U.S.C. § 6(b).

We AFFIRM.

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<sup>1</sup> We use the term “Appellant” to refer to “applicant” as defined in 37 C.F.R. § 1.42. Our decision references Appellant’s Appeal Brief (“Appeal Br.,” filed August 2, 2018) and Reply Brief (“Reply Br.,” filed January 3, 2019), and the Examiner’s Answer (“Ans.,” mailed November 2, 2018) and Final Office Action (“Final Act.,” mailed March 2, 2018). Appellant identifies Facebook, Inc. as the real party in interest. Appeal Br. 2.

## CLAIMED INVENTION

Appellant's claimed invention "relates generally to online advertising, and in particular to selecting social endorsement information to provide to a user of a social networking system in conjunction with an online advertisement" (Spec. ¶ 1).

Claims 1 and 23 are the independent claims on appeal. Claim 1, reproduced below with bracketed notations added, is illustrative of the claimed subject matter:

1. A computer-implemented method comprising:

[(a)] receiving, by a computer, a request to display an advertisement with social endorsement information to a viewing user, wherein the viewing user is a user of a social networking system;

[(b)] selecting an advertisement in response to the received request;

[(c)] identifying, by the computer, one or more objects in the social networking system related to the selected advertisement;

[(d)] identifying, by the computer, a plurality of candidate social endorsements associated with the selected advertisement, each candidate social endorsement comprising a description of an associated interaction between an identified object and one or more associated users who are connected to the viewing user in the social networking system;

[(e)] selecting, by the computer, a candidate social endorsement from the plurality of candidate social endorsements;

[(f)] modifying, by the computer, a size of the selected advertisement to accommodate the selected candidate social endorsement;

[(g)] modifying, by the computer, a location of the selected advertisement or a footprint of the selected advertisement to accommodate the modified size of the selected advertisement; and

[(h)] providing, by the computer, the modified selected advertisement and the selected candidate social endorsement for display to the viewing user.

### REJECTION

Claims 1–9, 11–23, and 25–27 are rejected under 35 U.S.C. § 101 as directed to a judicial exception without significantly more.

### ANALYSIS

Appellant argues the pending claims as a group (Appeal Br. 5–13). We select independent claim 1 as representative. The remaining claims stand or fall with claim 1. *See* 37 C.F.R. § 41.37(c)(1)(iv).

Under 35 U.S.C. § 101, an invention is patent eligible if it claims a “new and useful process, machine, manufacture, or composition of matter.” 35 U.S.C. § 101. The Supreme Court, however, has long interpreted § 101 to include an implicit exception: “[l]aws of nature, natural phenomena, and abstract ideas” are not patentable. *Alice Corp. v. CLS Bank Int’l*, 573 U.S. 208, 216 (2014).

The Supreme Court, in *Alice*, reiterated the two-step framework previously set forth in *Mayo Collaborative Services v. Prometheus Laboratories, Inc.*, 566 U.S. 66 (2012), “for distinguishing patents that claim laws of nature, natural phenomena, and abstract ideas from those that claim patent-eligible applications of those concepts.” *Alice Corp.*, 573 U.S. at 217. The first step in that analysis is to “determine whether the claims at issue are directed to one of those patent-ineligible concepts.” *Id.* If the claims are not directed to a patent-ineligible concept, e.g., an abstract idea, the inquiry ends. Otherwise, the inquiry proceeds to the second step where the elements of the claims are considered “individually and ‘as an ordered combination’”

to determine whether there are additional elements that “transform the nature of the claim’ into a patent-eligible application.” *Id.* (quoting *Mayo*, 566 U.S. at 79, 78). This is “a search for an ‘inventive concept’ — *i.e.*, an element or combination of elements that is ‘sufficient to ensure that the patent in practice amounts to significantly more than a patent upon the [ineligible concept] itself.’” *Id.* at 217–18 (alteration in original).

In rejecting the pending claims under 35 U.S.C. § 101, the Examiner determined that the claims are directed to “sending and receiving data to select and send targeted advertising,” *i.e.*, to managing advertising, which the Examiner concluded is a method of organizing human activity and, therefore, an abstract idea (Final Act. 3–5). The Examiner also determined that the claims do not include additional elements or a combination of elements sufficient to amount to significantly more than the judicial exception (*id.* at 5–7).

After Appellant’s briefs were filed, and the Examiner’s Answer mailed, the U.S. Patent and Trademark Office (the “USPTO”) published revised guidance for use by USPTO personnel in evaluating subject matter eligibility under 35 U.S.C. § 101. 2019 REVISED PATENT SUBJECT MATTER ELIGIBILITY GUIDANCE, 84 Fed. Reg. 50, 57 (Jan. 7, 2019) (the “2019 Revised Guidance”). That guidance revised the USPTO’s examination procedure with respect to the first step of the *Mayo/Alice* framework by (1) “[p]roviding groupings of subject matter that [are] considered an abstract idea”; and (2) clarifying that a claim is not “directed to” a judicial exception if the judicial exception is integrated into a practical application of that exception. *Id.* at 50. The 2019 Revised Guidance, by its terms, applies to all

applications, and to all patents resulting from applications, filed before, on, or after January 7, 2019. *Id.*<sup>2,3</sup>

*Step One of the Mayo/Alice Framework (2019 Revised Guidance, Step 2A)*

The first step in the *Mayo/Alice* framework, as mentioned above, is to determine whether the claims at issue are “directed to” a patent-ineligible concept, e.g., an abstract idea. *Alice Corp.*, 573 U.S. at 217. This first step, as set forth in the 2019 Revised Guidance (i.e., Step 2A), is a two-prong test; in Step 2A, Prong One, we look to whether the claim recites a judicial exception, e.g., one of the following three groupings of abstract ideas: (1) mathematical concepts; (2) certain methods of organizing human activity, e.g., fundamental economic principles or practices, commercial or legal interactions; and (3) mental processes. 2019 Revised Guidance, 84 Fed. Reg. at 54. If so, we next consider whether the claim includes additional elements, beyond the judicial exception, that “integrate the [judicial] exception into a practical application,” i.e., that apply, rely on, or use the judicial exception in a manner that imposes a meaningful limit on the

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<sup>2</sup> The 2019 Revised Guidance supersedes MANUAL OF PATENT EXAMINING PROCEDURE (“MPEP”) § 2106.04(II) and also supersedes all versions of the USPTO’s “Eligibility Quick Reference Sheet Identifying Abstract Ideas.” *See* 2019 Revised Guidance, 84 Fed. Reg. at 51 (“Eligibility-related guidance issued prior to the Ninth Edition, R-08.2017, of the MPEP (published Jan. 2018) should not be relied upon.”). Accordingly, Appellant’s arguments challenging the sufficiency of the Examiner’s rejection will not be addressed to the extent those arguments are based on currently superseded USPTO guidance.

<sup>3</sup> The USPTO issued an update on October 17, 2019 (the “October 2019 Update: Subject Matter Eligibility,” available at [https://www.uspto.gov/sites/default/files/documents/peg\\_oct\\_2019\\_update.pdf](https://www.uspto.gov/sites/default/files/documents/peg_oct_2019_update.pdf)) clarifying the 2019 Revised Guidance in response to comments solicited from the public.

judicial exception, such that the claim is more than a drafting effort designed to monopolize the judicial exception (“Step 2A, Prong Two”). *Id.* at 54–55. Only if the claim (1) recites a judicial exception and (2) does not integrate that exception into a practical application do we conclude that the claim is “directed to” the judicial exception, e.g., an abstract idea. *Id.*

We are not persuaded here that the Examiner erred in determining that claim 1 is directed to an abstract idea. The Federal Circuit has explained that “the ‘directed to’ inquiry applies a stage-one filter to claims, considered in light of the specification, based on whether ‘their character as a whole is directed to excluded subject matter.’” *Enfish, LLC v. Microsoft Corp.*, 822 F.3d 1327, 1335 (Fed. Cir. 2016) (quoting *Internet Patents Corp. v. Active Network, Inc.*, 790 F.3d 1343, 1346 (Fed. Cir. 2015)). It asks whether the focus of the claims is on a specific improvement in relevant technology or on a process that itself qualifies as an “abstract idea” for which computers are invoked merely as a tool. *See id.* at 1335–36. Here, it is clear from the Specification (including the claim language) that the claims focus on an abstract idea, and not on any improvement to technology and/or a technical field.

The Specification is titled “SELECTING SOCIAL ENDORSEMENT INFORMATION FOR AN ADVERTISEMENT FOR DISPLAY TO A VIEWING USER,” and states that the invention relates generally to “online advertising” (Spec. ¶ 1). The Specification describes, in the Background section, that online advertising has evolved into a profitable business, allowing commercial and private entities alike to place advertisements on websites and within native applications, and then display the advertisements to users who access the websites and applications (*id.* ¶ 2). “The ability to

analyze data associated with a particular website, application, and/or the viewing user has allowed advertisers to provide ads that are more relevant to a viewing user's interests" and to, thereby, "increase the likelihood of ad conversion (e.g., that the viewing user will observe the ad, click on the ad, proceed to the advertiser's website, or otherwise respond to the ad with the intended result) and/or the likelihood of greater demand for or awareness of the advertiser's goods or services" (*id.*). The Specification describes that providing social context information (e.g., information about a friend's activities related to the good or service being advertised) may further increase the relevance and, therefore, the effectiveness of an advertisement (*id.* ¶ 3). However, according to the Specification, "[c]urrent ad systems lack the ability to select the most relevant and effective social information to provide as a social context, or social endorsement, in conjunction with an ad" (*id.*). Therefore, there is a need for "a comprehensive solution to identify candidate social endorsements and select the most relevant and effective to provide as social endorsement information in conjunction with advertisements" (*id.*).

The present invention is ostensibly intended to address this need by providing a system and method for providing an advertisement for display to a viewing user, together with a social endorsement selected from a plurality of candidate endorsements based on a computed affinity score (*id.* ¶ 4).

Claim 1, thus, recites a method comprising: (1) receiving a request to display an advertisement and social endorsement to a viewing user of a social networking system, i.e., "receiving, by a computer, a request to display an advertisement with social endorsement information to a viewing user, wherein the viewing user is a user of a social networking system" (step (a));

(2) “selecting an advertisement in response to the received request” (step (b)); (3) identifying one or more objects in the social networking system related to the selected advertisement and a plurality of candidate social endorsements associated with the advertisement, i.e.,

identifying, by the computer, one or more objects in the social networking system related to the selected advertisement;  
[and]

identifying, by the computer, a plurality of candidate social endorsements associated with the selected advertisement, each candidate social endorsement comprising a description of an associated interaction between an identified object and one or more associated users who are connected to the viewing user in the social networking system

(steps (c) and (d)); (4) “selecting, by the computer, a candidate social endorsement from the plurality of candidate social endorsements” (step (e)); and (5) modifying the size and location or footprint of the advertisement to accommodate the selected endorsement, and providing the modified advertisement and endorsement for display to the viewing user, i.e.,

modifying, by the computer, a size of the selected advertisement to accommodate the selected candidate social endorsement;

modifying, by the computer, a location of the selected advertisement or a footprint of the selected advertisement to accommodate the modified size of the selected advertisement;  
and

providing, by the computer, the modified selected advertisement and the selected candidate social endorsement for display to the viewing user.

(steps (f), (g), and (h)). These limitations, when given their broadest reasonable interpretation, recite targeted advertising, which is a method of organizing human activity, and, therefore, an abstract idea. *See* 2019 Revised Guidance, 84 Fed. Reg. at 52.

The Federal Circuit has held similar concepts abstract. For example, in *Bridge and Post, Inc. v. Verizon Communications, Inc.*, 778 F. App'x 882 (Fed. Cir. 2019), the Federal Circuit held that abstract ideas include tracking a user's computer network activity and using information gained about the user to deliver targeted media, such as advertisements. *See also, e.g., Affinity Labs of Tex., LLC v. Amazon.com Inc.*, 838 F.3d 1266, 1271 (Fed. Cir. 2016) (customizing a user interface to have targeted advertising based on user information); *Intellectual Ventures I LLC v. Capital One Bank (USA)*, 792 F.3d 1363, 1370 (Fed. Cir. 2015) (tailoring information presented to a user based on particular information); *Morsa v. Facebook, Inc.*, 77 F. Supp. 3d 1007, 1013 (C.D. Cal. 2014), *aff'd*, 622 F. App'x 915 (Fed. Cir. 2015) (concluding that targeting advertisements to certain consumers is no more than an abstract idea).

Having concluded that claim 1 recites a judicial exception, i.e., an abstract idea (Step 2A, Prong One), we next consider whether the claim recites additional elements that integrate the judicial exception into a practical application (Step 2A, Prong Two).

The only element recited in claim 1, beyond the abstract idea, is a computer for implementing the claimed method — an element that, as the Examiner observes (Final Act. 6), is recited at a high level of generality, i.e., as a generic component (*see, e.g., Spec. ¶ 48*). We find no indication in the Specification, nor does Appellant direct us to any indication, that the operations recited in claim 1 invoke any assertedly inventive programming, require any specialized computer hardware or other inventive computer components, i.e., a particular machine, or that the claimed invention is implemented using other than generic computer components to perform

generic computer functions. *See DDR Holdings, LLC v. Hotels.com, L.P.*, 773 F.3d 1245, 1256 (Fed. Cir. 2014) (“[A]fter *Alice*, there can remain no doubt: recitation of generic computer limitations does not make an otherwise ineligible claim patent-eligible.”).

We also find no indication in the Specification that the claimed invention effects a transformation or reduction of a particular article to a different state or thing. Nor do we find anything of record, short of attorney argument, that attributes an improvement in technology and/or a technical field to the claimed invention or that otherwise indicates that the claimed invention integrates the abstract idea into a “practical application,” as that phrase is used in the 2019 Revised Guidance.<sup>4</sup>

Appellant asserts that, in order to effectively present a selected social endorsement to a user in conjunction with an advertisement such that the user’s engagement and interaction with both the social endorsement and the advertisement are improved, the claimed invention modifies the size, and the location or footprint, of the selected advertisement to accommodate the selected social endorsement (Appeal Br. 10). Appellant, thus, maintains that, similar to the claims held patent eligible in *Trading Technologies International v. CQG Inc.*, 675 F. App’x 1001 (Fed. Cir. 2017), claim 1 is patent eligible because the claim is directed to improving the visibility of

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<sup>4</sup> The 2019 Revised Guidance references MPEP § 2106.05(a)–(c) and (e) in describing the considerations that are indicative that an additional element or combination of elements integrates the judicial exception, e.g., the abstract idea, into a practical application. 2019 Revised Guidance, 84 Fed. Reg. at 55. If the recited judicial exception is integrated into a practical application, as determined under one or more of these MPEP sections, the claim is not “directed to” the judicial exception.

information within the graphical user interface such that user interaction with the information in the interface is improved (Appeal Br. 17–18).

In *Trading Technologies*, the Federal Circuit affirmed the district court’s holding that the patented claims (which recited a method and system for displaying market information on a graphical user interface) were not directed to an abstract idea because the district court found, and the Federal Circuit agreed, that the challenged patents did not simply claim displaying information on a graphical user interface; instead, the claims required “a specific, structured graphical user interface paired with a prescribed functionality directly related to the graphical user interface’s structure that is addressed to and resolves a specifically identified problem in the prior state of the art.” *Id.* at 1004.<sup>5</sup> The Federal Circuit, thus, found that the district court’s ruling was in accord with precedent that has recognized that “specific technologic modifications to solve a problem or improve the functioning of a known system generally produce patent-eligible subject matter.” *Id.* at 1004–05.

Appellant asserts here that, “[b]y modifying the advertisement to accommodate the social endorsement, the method improves visibility and

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<sup>5</sup> Specifically, the district court found that with prior art graphical user interfaces (“GUIs”), the best bid and best ask prices changed based on updates received from the market; therefore, there was a risk with these GUIs that a trader would miss her intended price as a result of prices changing from under her pointer at the time she clicked on the price cell on the GUI. The patents-in-suit provided a system and method whereby traders could place orders at a particular, identified price level, not necessarily the highest bid or the lowest ask price by keeping the prices static in position, and allowing the quantities at each price to change. *Trading Techs. Int’l, Inc. v. CQG, Inc.*, No. 05-cv-4811, 2015 WL 774655 \*4 (N.D. Ill. Feb. 24, 2015).

access to both the advertisement and the social endorsement for a viewing user” and that this “improves the user’s basic ability to interact with the advertisement and the social endorsement” (Appeal Br. 11). But, unlike the situation in *Trading Technologies*, Appellant does not identify any problem with prior user interfaces that the present interface was specifically designed to resolve. Rather than solving a technological problem, claim 1 simply calls for displaying certain information in a user interface and, in that regard, is, in our view, like the claims that the courts in *Trading Technologies* distinguished as patent ineligible. *See Trading Techs.*, 2015 WL 774655, at \*4 (“If the claims simply provided for ‘setting, displaying, and selecting’ data information, CQG would be correct in its assessment that the claims are directed to an abstract idea”); *Trading Techs.*, 675 F. App’x at 1005 (“ineligible claims generally lack steps or limitations specific to solution of a problem, or improvement in the functioning of technology”).

We also do not agree with Appellant that the present claims are distinguishable from those held patent ineligible in *Intellectual Ventures I LLC v. Capital One Financial Corp.*, 850 F.3d 1332 (Fed. Cir. 2017) (Appeal Br. 11–13). There, the claims concerned a system and method for editing XML documents of varying (and incompatible) formats and syntaxes; in accordance with the claimed method, a “dynamic document” containing data extracted from an original XML document was created and presented to a user; the user could make changes to the data displayed in the dynamic document, and the changes were then “dynamically propagated” back into the original XML document. *Intellectual Ventures*, 850 F.3d at 1339. Plaintiffs argued that the claims, thus, set forth a unique solution to a problem with contemporary XML documents, i.e., “the ‘incompatibility of

XML documents with different ‘XML syntax[es]’ and different ‘XML formats, relational database schemes, and messages formats.’” *Id.* at 1342. Yet, the Federal Circuit rejected that argument, observing that although the claims purport to modify the underlying XML document in response to modifications made in the dynamic document, “[n]othing in the claims indicate[s] what steps are undertaken to overcome the stated incompatibility problems with XML documents to propagate those modifications into the XML document.” *Id.*

Appellant argues here that the claims are unlike the patent-ineligible subject matter of *Intellectual Ventures* because the claimed invention explicitly specifies how a computer system modifies the size, and the footprint or location, of an advertisement to accommodate a social endorsement of the advertisement (Appeal Br. 11–12). Yet, although claim 1 recites “modifying . . . a size of the selected advertisement to accommodate the selected candidate social endorsement” and “modifying . . . a location of the selected advertisement or a footprint of the selected advertisement to accommodate the modified size of the selected advertisement,” claim 1 provides no technical details for performing the modification beyond reciting that it is performed “by the computer.” Similar to the claims at issue in *Intellectual Ventures*, “the claim language here provides only a result-oriented solution, with insufficient detail for how a computer accomplishes it. Our law demands more.” *Intellectual Ventures*, 850 F.3d at 1342 (citing *Elec. Power Grp., LLC v. Alstom S.A.*, 830 F.3d 1350, 1356 (Fed. Cir. 2016)).

We conclude, for the reasons outlined above, that claim 1 recites a method of organizing human activity, i.e., an abstract idea, and that the

additional elements recited in the claim are no more than generic components used as tools to perform the recited abstract idea. As such, they do not integrate the abstract idea into a practical application. *See Alice Corp.*, 573 U.S. at 223–24 (“[W]holly generic computer implementation is not generally the sort of ‘additional featur[e]’ that provides any ‘practical assurance that the process is more than a drafting effort designed to monopolize the [abstract idea] itself.’” (quoting *Mayo*, 566 U.S. at 77)). Accordingly, we agree with the Examiner that claim 1 is directed to an abstract idea.

*Step Two of the Mayo/Alice Framework (2019 Revised Guidance, Step 2B)*

Having determined under step one of the *Mayo/Alice* framework that claim 1 is directed to an abstract idea, we next consider under Step 2B of the 2019 Revised Guidance, the second step of the *Mayo/Alice* framework, whether claim 1 adds specific limitations beyond the judicial exception that are not “well-understood, routine, conventional” activity in the field, or simply appends well-understood, routine, conventional activities previously known to the industry, specified at a high level of generality, to the judicial exception.

Appellant asserts that a principal problem solved by the claimed invention is how to select the most relevant social information to provide to a user as social context (e.g., a social endorsement) for an advertisement (Appeal Br. 6–9). And Appellant argues that the claimed invention provides “an unconventional solution” for solving this problem — a solution that Appellant explains involves first identifying one or more objects in the social networking system related to the selected advertisement; next identifying a plurality of candidate social endorsements associated with the

selected advertisement, each candidate endorsement comprising a description of an associated interaction between an identified object and one or more associated users who are connected to the viewing user in the social networking system; next selecting a candidate social endorsement from the plurality of candidate social endorsements; and finally using the selected endorsement to modify the size and the location or footprint of the advertisement that is presented to the user (*id.* at 6–8), i.e., steps (c) through (h), as recited in claim 1.

Appellant asserts that this “unconventional solution enables a social endorsement to be presented to a user in conjunction with an advertisement and account[s] for varying sizes of both, thereby improving the user’s engagement and interaction with the social endorsement and the advertisement” (*id.* at 8–9). And Appellant concludes, “[t]hus, the claimed invention provides an unconventional solution for improving a user’s engagement and interaction with a content item, and is patent eligible under §101” (*id.* at 9; *see also id.* at 10 (arguing that “[t]he examiner has not shown that this claimed approach when applied as a whole is a conventional approach” as required by the April 19, 2018 *Berkheimer* memorandum)).

Although Appellant ostensibly contends otherwise, “the relevant inquiry is not whether the claimed invention as a whole is unconventional or non-routine.” *BSG Tech LLC v. BuySeasons, Inc.*, 899 F.3d 1281, 1290 (Fed. Cir. 2018). Instead, the question is whether the claim includes additional elements, i.e., elements other than the abstract idea itself, that “‘transform the nature of the claim’ into a patent-eligible application.” *Alice Corp.*, 573 U.S. at 217 (quoting *Mayo*, 566 U.S. at 79, 78).

The Examiner determined here, and we agree, that the only claim element beyond the abstract idea is a computer, i.e., a generic computer component used to perform generic computer functions (Final Act. 6) — a determination amply supported by, and fully consistent with the Specification (*see, e.g.*, Spec. ¶ 48).<sup>6</sup> Appellant cannot reasonably deny that the operation of this generic component is well-understood, routine, or conventional, where, as here, there is nothing in the Specification to indicate that the operations recited in claim 1 require any specialized hardware or inventive computer components or that the claimed invention is implemented using other than generic computer components to perform generic computer functions, e.g., receiving, processing, and transmitting information. Indeed, the Federal Circuit, in accordance with *Alice*, has “repeatedly recognized the absence of a genuine dispute as to eligibility” where claims have been defended as involving an inventive concept based “merely on the idea of using existing computers or the Internet to carry out conventional processes, with no alteration of computer functionality.” *Berkheimer v. HP, Inc.*, 890 F.3d 1369, 1373 (Fed. Cir. 2018) (Moore, J., concurring) (internal citations omitted); *see also BSG Tech*, 899 F.3d at 1291

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<sup>6</sup> The Office’s April 19, 2018 Memorandum to the Examining Corps from Deputy Commissioner for Patent Examination Policy, Robert W. Bahr, entitled, Changes in Examination Procedure Pertaining to Subject Matter Eligibility, Recent Subject Matter Eligibility Decision (*Berkheimer v. HP, Inc.*), available at <https://www.uspto.gov/sites/default/files/documents/memo-berkheimer-20180419.PDF>, expressly directs that an examiner may support the position that an additional element (or combination of elements) is well-understood, routine or conventional with “[a] citation to an express statement in the specification . . . that demonstrates the well-understood, routine, conventional nature of the additional element(s)” (*id.* at 3).

(“BSG Tech does not argue that other, non-abstract features of the claimed inventions, alone or in combination, are not well-understood, routine and conventional database structures and activities. Accordingly, the district court did not err in determining that the asserted claims lack an inventive concept.”).

We are not persuaded, on the present record, that the Examiner erred in rejecting independent claim 1 under 35 U.S.C. § 101. Therefore, we sustain the Examiner’s rejection of claim 1, and claims 2–9, 11–23, and 25–27, which fall with claim 1.

### CONCLUSION

In summary:

<b>Claims Rejected</b>	<b>35 U.S.C. §</b>	<b>Reference(s) /Basis</b>	<b>Affirmed</b>	<b>Reversed</b>
1–9, 11–23, 25–27	101	Eligibility	1–9, 11–23, 25–27	

No time period for taking any subsequent action in connection with this appeal may be extended under 37 C.F.R. § 1.136(a). *See* 37 C.F.R. § 1.136(a)(1)(iv).

**AFFIRMED**